

# Board of Zoning Adjustment Staff Report

February 1, 2016



<b>Case No:</b>	15CUP1036/15VARIANCE1091
<b>Project Name:</b>	Grove Pointe Assisted Living
<b>Location:</b>	240 Masonic Home Drive
<b>Owners:</b>	Masonic Homes of KY, Inc.
<b>Applicant:</b>	Masonic Homes of KY, Inc. – Gary Marsh
<b>Representative(s):</b>	QK4 – Ashley Bartley
<b>Project Area/Size:</b>	5.66 Acres
<b>Existing Zoning District:</b>	R-5A, Multi-Family Residential
<b>Existing Form District:</b>	C, Campus
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	9 – Bill Hollander
<b>Case Manager:</b>	Jon Crumbie, Planning & Design Coordinator

### REQUESTS

- Variance from the Land Development Code to allow a proposed structure to exceed the maximum height.

Location	Requirement	Request	Variance
Height	35'	40'	5'

- Modification of a Conditional Use Permit

### CASE SUMMARY/SITE CONTEXT

The applicant proposes a 72 unit Assisted Living facility on 5.66 Acres of a Northeastern portion in the Masonic Homes development. The Masonic Homes development site is located along Frankfort Avenue and West of the terminus of Frankfort Avenue at the intersection of Lexington Road and Shelbyville Road. The municipal boundaries of Louisville Metro and the City of St. Matthews are roughly coterminous with the Eastern property line of the site. Forty-two parking spaces will be provided for the assisted living facility. An additional 57 spaces for campus staff are being provided to compensate for the loss of parking that is being displaced as a result of the proposed structure and associated vehicle use areas. An existing infirmary building will be demolished and the new facility will be a 2 story (40') brick building totaling 72,000 SF with 2 courtyards. No new access or changes to existing access to abutting streets is being requested with this proposal.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b><i>Subject Property</i></b>			
<b>Existing</b>	Nursing, Assisted, and Independent Living	R-5A	C
<b>Proposed</b>	Assisted Living	R-5A	C
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Single and multi-family residential	R-5A/R-5/R-7	N
<b>South</b>	Commercial/Office/Residential	OR-1/OR-3/ C-2/R-4	TMC,TC,TN
<b>East</b>	Single and multi-family residential	R-5/R-7	N
<b>West</b>	Multi-family residential	R-7	C

**PREVIOUS AND ASSOCIATED CASES ON SITE**

- B-11-79: CUP for Home for Infirm or Aged (approved 3/5/79).
- 9-19-83/10-5-83: Change-in-zoning from R-1 and R-5 to R-5A, multi-family residential, and Major Preliminary Subdivision Plan for Masonic Village (approved 7/21/83). The rear of the Masonic Village proposal, Lots 3-7, was later subdivided to become Mockingbird Gardens Subdivision, docket 10-39-88.
- B-65-88: CUP for Home for Infirm or Aged as an expansion to B-11-79 (approved 5/16/88).
- B-184-03: CUP for off-street parking at the dead-end of Washington Square in the City of St. Matthews (approved 12/9/03).
- 10164: Modified CUP for 136 bed nursing home facility to replace previous facility located towards the Northwest in the Masonic Homes development site (approved 2/20/08).
- 10911: RDDDP for 136 bed nursing home facility located towards the Northwest in the Masonic Homes development site and other minor modifications across the Masonic Homes site (approved 5/7/08).
- 11444: Minor Subdivision Plat of record in PB 53, PG 14 creating two tracts from one; subsequently, separating the Masonic Homes R-5A site into two sections (recorded 7/18/08).
- 12293: RDDDP for accessory building and temporary doctor's office (approved 5/7/09).
- 13106: Modified CUP for vehicle/maintenance building and temporary doctor's office (approved 12/29/09).
- 13371: CUP for proposed daycare with offices along Frankfort Avenue (approved 9/9/10).
- 14169: RDDDP for Independent Living and Cottage Units in Southwest Corner and Amendment to Binding Element 1, 4, 5, 6, and 11, with an addition of Binding Element 14 (approved 10/27/10).
- 14226: Modified CUP for proposed Independent Living and cottage units in Southwest corner of Masonic Homes Development (approved 11-16-10).

- 15987: RDDDP for proposed revisions to Independent Living and cottage units in the Southwest section of the Masonic Homes development site (approved 6/30/11).
- 16769: Sign Plan with Variance (approved 1/24/12).
- 13DEVPLAN1105: RDDDP for Independent Living in Southwest section of the Masonic Homes development site (approved 2/5/14).
- 13CUP1022: Modified CUP for Independent Living in Southwest section of the Masonic Homes development site (approved 2/24/14).
- 14MOD100: Amendment to Binding Element to allow employees and residents site access from adjacent streets to the East (denied 7/28/14).

### **INTERESTED PARTY COMMENTS**

Staff communicated with one adjacent property owner who just wanted to make sure proposal would not open access to the adjoining neighborhood.

### **APPLICABLE PLANS AND POLICIES**

Cornerstone 2020  
Land Development Code (revised December 2015)

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES**

(a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare because the proposed structure will not be noticeable from the street or adjacent properties.

(b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity because the proposed structure will be compatible with the existing structures on site.

(c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public because the proposed structure will be approximately 260 feet from the nearest residential property along Coralberry and Pepperbush Road.

(d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations because the variance is internal to the site and will be in keeping with the existing historic campus setting.

### **ADDITIONAL CONSIDERATIONS:**

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: There are no special circumstances, but the applicant is trying to be compatible with the existing architecture on site and also provide higher ceilings and utility/HVAC space.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the addition could not be built as shown and would need to be modified.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The owner is trying to conform to the existing conditions on site.

### TECHNICAL REVIEW

The proposed development plan is in order and has received preliminary approvals from Transportation Planning Review and the Metropolitan Sewer District.

A Minor Plat application will need to be filed to subdivide the development site from Tract 1 of record in PB 53, PG 14. Access to the site is provided via existing cross access agreement for Masonic Homes per DB 9691, PG 17.

A wrecking permit, case 14WR1306, has been properly issued for the demolition of the existing building. Historic Preservation staff has approved the RDDDP request.

### STAFF CONCLUSIONS

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for approving a variance and modified Conditional Use Permit.

### REQUIRED ACTIONS

- **APPROVE** or **DENY** the variance and modified Conditional Use Permit

### NOTIFICATION

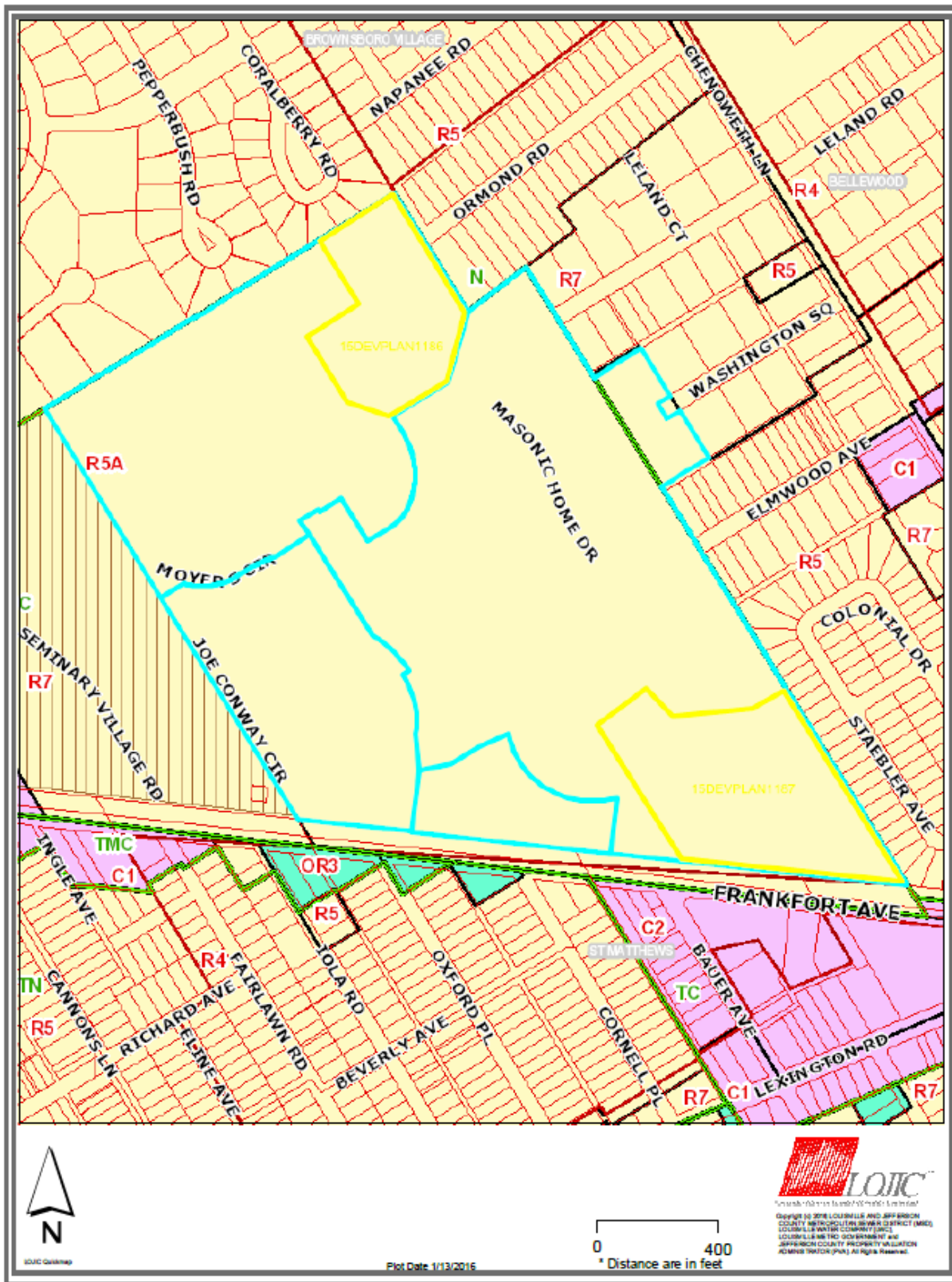
Date	Purpose of Notice	Recipients
1/15/16	BOZA	414 Notices were sent for this case*

\*Notification included all 1<sup>st</sup> tier owners of any property adjacent to Masonic Homes development site, City of St. Matthews and Jack Ruf, adjacent Homeowners Associations, individuals who spoke in favor or opposition of case 14MOD1000, individuals who spoke at DRC hearing 10/27/10, and individuals who spoke at the Planning Commission hearing for rezoning 7/21/83. Notification also included all property owners of streets abutting and/or having their end-point at the Masonic Homes development site in the St. Matthews; including, Ormond, Leland, Washington, Elmwood, Staebler, and Colonial. A copy of those individuals notified is included in the case file and stamped *Received January 13, 2016*.

### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**



2. Aerial Photograph



**Variance Justification:**

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

**1. Explain how the variance will not adversely affect the public health, safety or welfare.**

A building height increase of 5' will not have any adverse effect on health, safety or welfare as all applicable building codes are in compliance.

**2. Explain how the variance will not alter the essential character of the general vicinity.**

Masonic Homes campus has many three story buildings in approximate range of 40-55'. The most recent development t of Miralea is also three stories and building height of 45' (of which a variance was not requested by PDS).

**3. Explain how the variance will not cause a hazard or a nuisance to the public.**

The building is set back from the nearest single family residential property line at Coralberry and Pepperbush Road (north) approximately 260' and only a 25' rear setback is required.

**4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.**

Only a 5' building height variance is being requested and is consistent with the existing historic campus.

*Additional consideration:*

**1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).**

The proposed building is two stories, much common area. The architecture of the facility is "grand" and therefor provides taller than standard ceilings. Providing higher ceilings along with utility/HVAC space in two stories requires a taller building than standard two story.

**2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.**

The higher ceilings and more grand scale would not be allowed if height variance is not permitted.

**3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?**

No.

**RECEIVED**  
DEC 28 2015  
PLANNING &  
DESIGN SERVICES

*15 Variance 491*



SIDE ELEVATION



FRONT ELEVATION



01 Sept 2015

EXTERIOR ELEVATIONS

*Miralea Phase III - Assisted Living*

MASONIC HOMES of KENTUCKY

*Louisville, Kentucky*



RECEIVED

MR. L. W. B.  
1500 ...  
DENVER, CO 80202

2015/09/01  
1500 ...



